

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:15-cv-00130-MR-DLH**

**MINERVA McSWAIN, Individually)
and as Executrix of the Estate of)
BUREN EDWARD McSWAIN,)**

Plaintiff,)

VS.

AIR & LIQUID SYSTEMS)
CORPORATION, et al.,)

Defendants.)

ORDER

THIS MATTER is before the Court on the Plaintiff's Motion to Dismiss Defendant SEPCO Corporation ("SEPCO") [Doc. 349].

The Court stayed this action as to SEPCO on February 12, 2016, based upon the Defendant's filing of a Suggestion of Bankruptcy. [See Docs. 149, 150]. The Plaintiff now moves pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure to dismiss her claims against SEPCO. [Doc. 349].

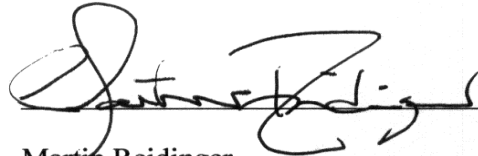
The Court will allow the dismissal of the Defendant, despite the existence of the stay. “[T]he purposes of the Bankruptcy Code are in no way infringed by the dismissal by a plaintiff of a case against the bankrupt without any additional cost or risk to the bankrupt or its creditors.” Sawyer v.

Jackson, 224 F. Supp. 3d 461, 462 (E.D. Va. 2016) (allowing voluntary dismissal under Fed. R. Civ. P. 41(a)(1)(A)(i)) (quoting Chase Manhattan Bank, N.A. v. Celotex Corp., 852 F. Supp. 226, 228 (S.D.N.Y. 1994)).

IT IS, THEREFORE ORDERED that the Plaintiff's Motion to Dismiss [Doc. 349] is **GRANTED**, and the Plaintiff's claims against Defendant SEPCO Corporation are hereby **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

Signed: September 15, 2017


Martin Reidinger
United States District Judge

